

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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YURMAN STUDIO, INC. and YURMAN
DESIGN, INC.,

Plaintiffs/Counter-Defendants,

- against -

ELENA CASTANEDA and EJEWELER LLC
d/b/a OVERSTOCKJEWELER.COM,

Defendants/Counter-Plaintiffs.
----- X

Civil Action No. 07-1241 (SAS)(HP)
(Action No. 1)

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CARTIER, a division of RICHEMONT NORTH
AMERICA, INC., CARTIER INTERNATIONAL,
N.V., CARTIER CREATION STUDIO, S.A., VAN
CLEEF & ARPELS S.A., VAN CLEEF &
ARPELS, INC., VAN CLEEF & ARPELS
DISTRIBUTION, INC., GUCCI AMERICA, INC.,
and BULGARI S.p.A.,

Plaintiffs,

- against -

ELENA CASTANEDA and EJEWELER LLC
d/b/a OVERSTOCKJEWELER.COM,

Defendants.
----- X

Civil Action No. 07-7862 (SAS)(HP)
(Action No. 2)

**DECLARATION OF FREDERIC GILBERT-ZINCK IN OPPOSITION TO
DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

EXHIBIT A

FREDERIC GILBERT-ZINCK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

COPY

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YURMAN STUDIO, INC.,

Plaintiff/Counter-Defendant, Case No.

07-1241

- against -

(SAS/HP)

ELENA CASTANEDA and EJEWELER LLC d/b/a
OVERSTOCKJEWELER.COM,

Defendants/Counter-Plaintiffs,

- against -

YURMAN DESIGN, INC.,

Third-Party Defendant.

-----x

March 27, 2008

10:49 a.m.

399 Park Avenue

New York, New York

DEPOSITION of FREDERIC GILBERT-ZINCK

COURT REPORTER: Angela Moody

RAYVID REPORTING SERVICE, INC. (212) 599-3642

FREDERIC GILBERT-ZINCK

1 A I assume so, yes.

2 Q You mentioned before that you
3 saw this bracelet for the first time in the
4 catalogue around 2005/2006.

5 Is the first time you ever saw
6 this bracelet, was it in a catalogue or did you
7 see the bracelet for real?

8 MR. EDERER: Objection to form.

9 A I seem to remember I saw it
10 first in the catalogue. I don't really
11 remember for sure -- I must have seen it in the
12 catalogue first. I don't remember for sure.

13 Q Are you aware of whether Van
14 Cleef is still selling this bracelet today?

15 A Yes, of course we sell it.

16 Q Is it still selling today the
17 other items in the Byzantine Alhambra
18 collection?

19 MR. EDERER: Objection to form.

20 A Yes.

21 Q Are you aware of who designed
22 this bracelet?

23 A Not specifically.

24 Q Are you aware of who designed
25 the other pieces in the Byzantine Alhambra

FREDERIC GILBERT-ZINCK

1 collection?

2 A Not specifically.

3 Q Are you aware of whether the
4 same person designed all of the items in the
5 Byzantine Alhambra collection?

6 A I don't know because it's team
7 work.

8 Q What do you mean when you say
9 "it's team work"?

10 A There are different designers
11 who work on the project and different
12 individuals from the company.

13 Q Does Van Cleef have a special
14 department that just does design?

15 A Yes.

16 Q How many employees work in that
17 department?

18 A Today, I would say five or six.

19 Q Of those five or six individuals
20 in that department, do they have discreet
21 different jobs in the design process?

22 MR. EDERER: Objection to form.

23 A No, they are all on the same
24 foot.

25 Q Where is the design department

FREDERIC GILBERT-ZINCK

1 Q Is it a ring?

2 A It looks like it, yes.

3 Q Why is it called the Modern
4 Alhambra?

5 A It's called Modern Alhambra
6 because it's a variation of the Vintage
7 Alahambra.

8 Q What's the Vintage Alahambra?

9 A That's the historic Alhambra.

10 Q When was this Modern Alhambra
11 designed, if you know?

12 A Approximately, yes?

13 Q Approximately.

14 A You want the date?

15 Q Yes.

16 A 2001.

17 Q When did Van Cleef begin selling
18 it?

19 A 2001, 2002.

20 Q How did you first become aware
21 of this ring?

22 A I remember seeing Madam Guichot
23 broadly wear this ring at the proper time.

24 Q Is this ring part of a
25 collection?

FREDERIC GILBERT-ZINCK

1 A Yes.

2 Q What collection?

3 A Modern Alhambra.

4 Q What other products are in the
5 Modern Alhambra collection?

6 A Necklace, long necklace,
7 earrings, bracelet and cufflinks.

8 Q Do you know who designed this
9 piece?

10 A No.

11 Q Have you ever had any
12 discussions with anybody at Van Cleef regarding
13 the design of this ring?

14 A Probably.

15 Q With whom?

16 A I remember congratulating Madam
17 Guichot on having the initiative to create this
18 design.

19 Q So, did Madam Guichot create the
20 design of the ring?

21 THE INTERPRETER: Correction by
22 the translator.

23 A It was Madam Guichot that had
24 the impulse to create for the design.

25 Q Did you discuss that impulse

FREDERIC GILBERT-ZINCK

1 with her?

2 MR. EDERER: Objection to form.

3 A I congratulated her for having
4 modernized the Vintage Alahambra.

5 Q Is Madam Guichot a designer?

6 A Madam Guichot, at the time, was
7 Van Cleef & Arpels' President.

8 Q Was she ever a designer?

9 A Not as far as I know.

10 Q Does the Modern Alhambra
11 collection have a theme, to your knowledge?

12 A It's the Alhambra modernized.

13 Q In what sense did it modernize
14 the Alhambra?

15 A For me, that's my personal
16 opinion, the lines are purer.

17 Q What do you mean by "purer"?

18 A The contour is smooth and large,
19 whereas in the Vintage Alahambra, it's beaded.
20 The setting of the stone is different.

21 MR. ZARIN: Mark this.

22 (The above described document was
23 marked Exhibit D-3 for identification, as
24 of this date.)

25 MR. EDERER: I'll point out for

FREDERIC GILBERT-ZINCK

1 motif, are there any specific features of the
2 motif that you believe are emblematic of Van
3 Cleef & Arpels?

4 A It's the result that's
5 distinctive.

6 Q So, is the answer yes or no?

7 MR. EDERER: Objection, asked
8 and answered.

9 A Can up reask the question.

10 MR. ZARIN: Read back the
11 question, please.

12 (The question requested was read
13 back by the reporter.)?

14 A And you want a yes or no answer?

15 Q Yes or no.

16 MR. EDERER: If it's not capable
17 of being answered yes or no, you don't
18 have to answer it that way.

19 A I don't know.

20 Q Do you know who designed this
21 ring?

22 A As far as I know, again, it's
23 team work inside of Van Cleef & Arpels.

24 Q Have you ever spoken to any
25 individual at Van Cleef who was part of that

FREDERIC GILBERT-ZINCK

1 Q Is this the only watch in the
2 Vintage Alahambra collection?

3 A I believe there is or used to be
4 another one, which is similar, with a leather
5 bracelet.

6 Q Do you know who designed this
7 watch?

8 A I don't know the specific name,
9 but I assume like the rest of the collection,
10 it's team work from a creation team.

11 Q Do you know when this watch was
12 designed?

13 A I don't really remember the
14 date. I think it was around the year 2000, but
15 I'm not sure.

16 Q Do you know when this watch was
17 first sold by Van Cleef?

18 A No, but like everything else,
19 it's a few months after the design.

20 Q Have you ever had any
21 conversations with anybody at Van Cleef
22 regarding the design of this watch?

23 A About this watch specifically,
24 no. About the design of Vintage Alhambra, yes.

25 Q Do you know where this watch was